

January 26, 2011

Mr. Hari Akunuri
Tennessee Department of Environment & Conservation
Water Pollution Control
6th Floor L & C Annex
401 Church Street
Nashville, TN 37243-1534

Subject: Draft NPDES Permit TN0062022 (Bradford Lagoon)

Dear Mr. Akunuri,

The Tennessee Clean Water Network submits these comments in response to the public notice regarding the draft NPDES permit for the Bradford Lagoon (TN0062022) in Gibson County. We appreciate the opportunity to comment on this permit and look forward to hearing from the Division.

1. Narrative protection from water quality criteria violations.

Please include the following language on page 3 under the section “Effluent limitations and monitoring requirements” (adapted from the Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities, TNR100000, § 4.3.2):

“The discharge activity shall not cause or contribute to violations of water quality criteria as stated in the TDEC Rules, Chapter 1200-4-3-.03.”

This language preserves TDEC’s authority to protect water quality in the event the permit’s numeric effluent limits and monitoring requirements prove insufficient during the permit term. Given very similar language is included in TDEC’s construction general permit it would be reasonable to include this provision in all NPDES permits issued in Tennessee.

2. Clarification of exceedance in Appendix 2

According to Appendix 2 of the draft permit (page R-8), the permittee consistently violated the limits for Total Residual Chlorine (TRC) and pH: 100% of the DMRs submitted in the past five years contain TRC violations, and 45% of them contain pH violations. However, this reporting is not consistent with other reporting, specifically EPA’s ECHO database. Is the draft permit accurate in the number of permit violations listed in Appendix A?

If the draft permit is accurate, steps are necessary to correct for these problems. The permit notes nothing about improving lagoon operations or technologies to address this significant problem. According to the Department's Enforcement Database, the permittee has not received an enforcement order which would mandate improvements. Therefore, the permit should contain requirements to address the potential hazards of these permit violations and require improved technologies to ensure effluent limits.

3. Nutrient monitoring

TCWN requests monitoring of Total Nitrogen and Total Phosphorus (TP) be included as a quarterly requirement of this permit in order to both evaluate the lagoon's potential impacts to the receiving waters as well as its potential impact in a basin draining directly to the Mississippi River and contributing to hypoxia in the Gulf of Mexico. This will provide for a better understanding of the loadings of these pollutants from this facility and generate a more detailed basis on which to develop future limits and nutrient TMDLs for relevant watersheds.

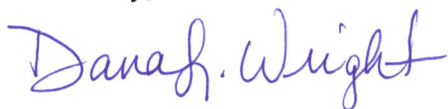
4. Compliance Schedule language clarification

It is unclear how the action items listed in Section 4 of the Rationale (Page R-2) are consistent with the terms of a "compliance schedule" in accordance with 40 C.F.R. §122.47. All requirements in this section have previously been required by the permittee and do not fall under the conditions of "compliance schedules" as outlined in the Clean Water Act or further detailed in EPA's *NPDES Permit Writers' Manual* Section 9.1.3 (September 2010).

TCWN requests this section be corrected to include only new requirements or re-worded so "compliance schedule" is not used in a means conflicting with EPA's established language.

We appreciate the Division's consideration of these concerns and look forward to hearing from you regarding these issues.

Sincerely,



Dana Wright
Director of Policy and Legislative Affairs